

**Notice of Allowability**

Application No.

09/905,247

Applicant(s)

KE ET AL.

Examiner

Anand U. Desai, Ph.D.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 15, 2005.
2. ☒ The allowed claim(s) is/are 1,9-11 and 16.
3. ☒ The drawings filed on 13 July 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20050606</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                    |
|   | 9. <input type="checkbox"/> Other _____  |

### **DETAILED ACTION**

1. This office action is in response to Amendment filed on March 15, 2005. Claims 12-15, and 17-20 have been cancelled. Claims 1-11, and 16 are currently pending and are under examination.

#### **Withdrawal of Rejections**

2. The rejection of claims 1-11, and 16 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph is withdrawn based on Applicants amendment.
3. The rejection of claims 1-11, and 16 under 35 U.S.C. 112, 1<sup>st</sup> paragraph is withdrawn based on Applicants amendment.
4. The rejection of claims 1-4, 8, 9, and 16 under 35 U.S.C. 102(b) as being anticipated by Lee-Huang et al. (U.S. Patent 5,532,214) is withdrawn.
5. The rejection of claims 1-4, 6, 7, 9, and 16 under 35 U.S.C. 102(b) as being anticipated by Siegall (U.S. Patent 5,541,110) is withdrawn.

### **EXAMINER'S AMENDMENT**

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dr. Howard Frankfort on June 8, 2005.

#### **Examiners Amendment to the Claims:**

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1. (Currently Amended) A mutant trichosanthin (MTCS) protein, comprising the amino acid sequence as set forth in SEQ ID NO:8, with the modification of at least one amino acid residue in the following three regions: amino acid residues 174 to 180, 203 to 226, and 230 to 244, wherein the modification is selected from either, arginine at position 174, lysine at position 177, arginine at position 222 and arginine at position 243 is independently replaced with glutamic acid, aspartic acid, or glycine, or aspartic acid at position 176, asparagines at position 205, asparagines at position 206, glutamine at position 208, glutamic acid at position 210, asparagines at position 217, glutamine at position 219, asparagines at position 220, glutamine at position 221, asparagines at position 236, asparagines at position 242, and asparagines at position 244 is independently replaced with lysine or glycine, or threonine at position 178, serine at position 203, threonine at position 204, serine at position 211, threonine at position 224, threonine at position 226, threonine at position 234, and serine at position 235 is independently replaced with glycine or alanine, or valine at position 175, phenylalanine at position 179, leucine at position 180, glycine at position 207, phenylalanine at position 209, proline at position 212, valine at position 213, valine at position 214, valine at position 215, valine at position 223, isoleucine at position 216, isoleucine at position 225, alanine at position 218, alanine at position 230, alanine at position 238, glycine at position 231, valine at position 232, valine at position 233, isoleucine at position 237, leucine at position 239, leucine at position 240, and leucine at position 240 is independently deleted.

2.-8. (Cancelled).

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*Allowable Subject Matter*

7. Claim 1, 9-11, and 16 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand U. Desai, Ph.D. whose telephone number is (571) 272-0947. The examiner can normally be reached on Monday - Friday 7:00 a.m. - 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber can be reached on (517) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KAREN COCHRANE CARLSON, PH.D.  
PRIMARY EXAMINER

June 8, 2005

